

**THE DISTRICT OF COLUMBIA  
ALCOHOLIC BEVERAGE CONTROL BOARD**

**In the Matter of:**

Connexion Group, LLC  
t/a 1230 DC

Holder of a  
Retailer's Class CR License

at premises  
1230 9th Street, N.W.  
Washington, D.C. 20005

Case No.: 18-CMP-00150  
License No.: ABRA-100537  
Order No.: 2019-143

**BEFORE:** Donovan Anderson, Chairperson  
Nick Alberti, Member  
Mike Silverstein, Member  
Bobby Cato, Member

**ALSO PRESENT:** Jessica Gunzel and Lindsay Marks, Assistant Attorneys General  
Office of the Attorney General for the District of Columbia

Martha Jenkins, General Counsel  
Alcoholic Beverage Regulation Administration

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**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

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**INTRODUCTION**

The Alcoholic Beverage Control Board (Board) finds that Connexion Group, LLC, t/a 1230 DC, (hereinafter "Respondent" or "1230 DC") violated D.C. Official Code §§ 25-113a(c), 25-113a(b)(1), 25-723(b), and 25-823(a)(7) when on Saturday, May 26, 2018, it illegally operated a summer garden on its roof without Board approval; it illegally charged a cover charge without the proper endorsement; it violated its Board approved hours of operation and sales by operating past 2:00 a.m.; and it violated its Board approved capacity. In light of these offenses, the Board issues a \$6,500 fine.

## *Procedural Background*

This case arises from the Notice of Status Hearing and Show Cause Hearing (Notice), which the Board executed on August 28, 2018. *ABRA Show Cause File No. 18-CMP-00150*, Notice of Status Hearing and Show Cause Hearing, 2-4 (Aug. 28, 2018). The Alcoholic Beverage Regulation Administration (ABRA) served the Notice on the Respondent, located at premises 1230 9th Street, N.W., Washington, D.C., on August 31, 2018. *ABRA Show Cause File No. 18-CMP-00150*, Service Form. The Notice charges the Respondent with four (4) violations, which if proven true, would justify the imposition of a fine, as well as the suspension or revocation of the Respondent's license.

Specifically, the Notice charges the Respondent with the following violations:

- Charge I: [On May 26, 2018,] [y]ou operated a summer garden without the proper endorsement, in violation of D.C. Official Code § 250113a(c)...and 23 DCMR § 1004.1...
- Charge II: [On May 26, 2018,] [y]ou charged a cover charge for entry without the proper endorsement, in violation of D.C. Official Code § 25-113a(b)(1)... 23 DCMR § 1002.1...
- Charge III: [On May 26, 2018,] [y]ou failed to comply with the terms of your license by operating outside the approved hours of sale, in violation of D.C. Official Code § 25-723(b)...
- Charge IV: [On May 26, 2018,] [y]ou failed to follow the terms of your Board-approved license by exceeding capacity, in violation of D.C. Official Code § 25-823(a)(7)...

*Notice of Status Hearing and Show Cause Hearing, 2-4.*

The Government and the Respondent appeared at the Show Cause Status Hearing on October 3, 2018, where there was no settlement of the matter.

The Respondent failed to appear at the Show Cause Hearing on February 27, 2019, and the Government proceeded ex parte in accordance with D.C. Official Code § 25-447.

## **FINDINGS OF FACT**

The Board, having considered the evidence, the testimony of the witnesses, the arguments of the parties, and all documents comprising the Board's official file, makes the following findings:

1. The Respondent, 1230 DC, holds a Retailer's Class CR License at 1230 9th Street, N.W., Washington, D.C. *ABRA License No. 100537*. Its hours of operation, sales and service are: Sunday through Thursday 11:00 a.m. to 1:00 a.m. and Friday and Saturday 11:00 a.m. through 2:00 a.m. *See ABRA Licensing File No. ABRA-100537.*

2. On Saturday, May 26, 2018, ABRA Supervisory Investigator Mark Brashears was working the Noise Task Force Program with an inspector from the District of Columbia Department of Consumer and Regulatory Affairs (DCRA). *Transcript (Tr.)*, February 27, 2018 at 7, 8.
3. ABRA Investigator Kevin Puente received a call from Supervisory Investigator Brashears requesting his assistance at the Respondent's location. *Id.* at 8. The investigators observed that the Respondent's establishment was operating a summer garden and it was overcrowded inside of the establishment. *Id.*
4. The investigators observed patrons using the Respondent's back door to gain entry to the establishment. *Id.* at 9. They identified themselves as ABRA investigators to an employee. *Id.* Investigator Puente then asked to speak to the ABC Manager or the owner. *Id.*
5. Edgar Johnson approached Investigator Puente and identified himself as the ABC Licensed Manager. *Id.* Mr. Johnson produced the establishment's ABC license. *Id.* The ABC license did not list an endorsement for an approved summer garden. *Id.* at 10.
6. The investigators went to the Respondent's rooftop deck located off the second floor where they observed several female patrons consuming alcoholic beverages. *Id.* They also observed tables, chairs, a grill, and coolers arranged in the summer garden as an indication that they had been operating since early in the day. *Id.*
7. Investigator Puente advised Mr. Johnson that the establishment was operating an unapproved summer garden. *Id.* at 11. In addition, the DCRA inspector notified Mr. Johnson that the construction was illegal and that the Respondent would be issued a citation. *Id.*
8. At 1:40 a.m., Investigator Puente advised Mr. Johnson that the approved hours of operation, sales and service ended at 2:00 a.m. *Id.* at 12. At this time Investigator Puente waited for Supervisory Investigator Jason Peru and another investigator to arrive to the establishment to assist him. *Id.*
9. At 2:00 a.m., the investigators went back inside the Respondent's premises. *Id.* at 12, 13. The investigators observe a female collecting a cover charge from patrons. *Id.* at 13. The investigators advised Mr. Johnson that the ABC license did not have an endorsement that allowed the Respondent to charge a cover charge. *Id.* at 13, 14.
10. Investigator Puente went to the second floor and observed a large crowd and bartenders behind the bar still serving alcoholic beverages. *Id.* at 14. He also observed a DJ playing music and several patrons dancing. *Id.*
11. The investigators advised Mr. Johnson that the establishment was operating and serving alcoholic beverages past the establishment's approved hours. *Id.* Mr. Johnson claimed that they could operate until 4:00 a.m. because it was a holiday weekend. *Id.* Investigator Puente informed Mr. Johnson that the Respondent did not apply to ABRA for a holiday hour extension. *Id.*
12. At 2:45 a.m., after the investigators radioed the Metropolitan Police Department (MPD) for assistance, Mr. Kwamey, who identified himself as the owner, instructed the DJ to stop playing music and to turn on the lights. *Id.* at 15, 16.

13. Outside the establishment, the investigators observed a large crowd exiting the establishment. *Id.* at 16. Mr. Johnson stated that approximately two hundred fifty (250) persons were inside the establishment. *Id.* at 16, 18. The ABC license indicated that occupancy of the premises is limited to 111 persons. *Id.* at 16, 18.

## CONCLUSIONS OF LAW

14. The Board has the authority to fine, suspend, or revoke the license of a licensee who violates any provision of Title 25 of the District of Columbia (D.C.) Official Code pursuant to D.C. Code § 25-823(a)(1).

### I. Standard of Proof

15. In this matter, the Board shall only base its decision on the “substantial evidence” contained in the record. 23 DCMR § 1718.3 (West Supp. 2019). The substantial evidence standard requires the Board to rely on “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Clark v. D.C. Dep’t of Employment Servs.*, 772 A.2d 198, 201 (D.C. 2001) citing *Children’s Defense Fund v. District of Columbia Dep’t of Employment Servs.*, 726 A.2d 1242, 1247 (D.C.1999).

### II. The Respondent Operated a Summer Garden Without Approval in Violation of § 25-113a.

16. Under § 25-113a(c), an on-premises retail licensee shall obtain an endorsement on its license before the licensee operates an outdoor summer garden. D.C. Code § 25-113a(c); 23 DCMR § 1004.1 (West Supp. 2019). In this case, on May 26, 2018, ABRA investigators observed patrons drinking on the Respondent’s second floor rooftop deck; yet, the Respondent does not have an approved summer garden endorsement on its ABC license. *Supra*, at ¶ 3, 6. Under these circumstances, the Board sustains Charge I.

### III. The Respondent Charged Cover Charge Without Approval in Violation of § 25-113a(b)(1).

17. Under § 25-113a(b)(1), an on-premises retail licensee shall obtain an endorsement on its license before charging a cover charge. D.C. Code § 25-113a(b)(1); 23 DCMR § 1002.1 (West Supp. 2019). In this case, the Respondent was collecting a cover charge from patrons on May 26, 2018, though it had no Board authority to do so. *Supra*, at ¶ 9. Under these circumstances, the Board sustains Charge II.

### IV. The Respondent Exceeded its Hours of Operation and Sale in Violation of § 25-723.

18. Under § 25-823(a)(7), a licensee must “follow the terms of its license.” D.C. Official Code § 25-823(a)(7). In this case, the Respondent’s license ended its hours of operation and sale at 2:00 a.m.; yet, patrons were still inside the premises consuming alcohol at 2:45 a.m. on May 26, 2018. *Supra*, at ¶¶ 10, 11, 12. Under these circumstances, the Board sustains Charge III.

**V. The Respondent Violated its Occupancy in Violation of § 25-823(a)(7).**

19. Under § 25-823(a)(7), a licensee must “follow the terms of its license.” D.C. Official Code § 25-823(a)(7). In this case, the Respondent’s premises was limited to 111 persons by the terms of its ABC license, but on May 26, 2018, the Respondent’s approved ABC Manager confirmed that approximately two hundred fifty (250) persons were inside the establishment, which exceeded the Respondent’s authorized capacity. *Supra*, at ¶¶ 3, 10, 13. Therefore, the Board sustains Charge IV.

**VI. Penalty**

20. ABRA’s records indicate that the current violations represent first level primary tier and secondary tier violations. The fine range for a first time primary tier offense falls between \$1,000 and \$2,000, while the fine range for a first time secondary offense falls between \$250 and \$500. 23 DCMR §§ 801, 802 (West Supp. 2019).

**ORDER**

Therefore, the Board, on this 20th day of March 2019, finds Connexion Group, LLC, t/a 1230 DC, guilty of violating D.C. Official Code §§ 25-113a(c), 25-113a(b)(1), 25-723(b), and 25-823(a)(7). The Board imposes a total fine of \$6,500, which shall be distributed among the charges as follows:

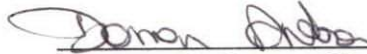
- (1) For the violation described in Charge I, 1230 DC shall pay a fine of \$2,000.
- (2) For the violation described in Charge II, 1230 DC shall pay a fine of \$500.
- (3) For the violation described in Charge III, 1230 DC shall pay a fine of \$2,000.
- (4) For the violation described in Charge IV, 1230 DC shall pay a fine of \$2,000.

**IT IS FURTHER ORDERED** that the Respondent must pay all fines imposed by the Board within thirty (30) days from the date of this Order, or its license shall be immediately suspended until all amounts owed are paid.


**IT IS FURTHER ORDERED**, in accordance with 23 DCMR § 800.1, the violations found by the Board in this Order shall be deemed three primary tier violations and one secondary tier violation.


The ABRA shall deliver copies of this Order to the Government and the Respondent.

District of Columbia  
Alcoholic Beverage Control Board


  
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Donovan Anderson, Chairperson

  
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Nick Alberti, Member

  
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Mike Silverstein, Member

  
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James Short, Member

  
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Bobby Cato, Member

  
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Rema Wahabzadah, Member

Pursuant to D.C. Official Code § 25-433(d)(1), any party adversely affected may file a Motion for Reconsideration of this decision within ten (10) days of service of this Order with the Alcoholic Beverage Regulation Administration, Reeves Center, 2000 14th Street, NW, 400S, Washington, D.C. 20009.

Also, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, D.C. Official Code § 2-510 (2001), and Rule 15 of the District of Columbia Court of Appeals, any party adversely affected has the right to appeal this Order by filing a petition for review, within thirty (30) days of the date of service of this Order, with the District of Columbia Court of Appeals, 430 E Street, N.W., Washington, D.C. 20001; (202-879-1010). However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR § 1719.1 stays the time for filing a petition for review in the District of Columbia Court of Appeals until the Board rules on the motion. *See* D.C. App. Rule 15(b) (2004).